

# PERAC Pension News

No.  
42

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## COMMISSIONER ROBERT MCCARTHY RE-APPOINTED BY AUDITOR SUZANNE BUMP

Michael DeVito  
Director of Strategic Planning,  
Management and Public Affairs

**P**ERAC Commissioner Robert B. McCarthy of Watertown, MA was sworn-in to another full term on the Commission on December 17, 2015. Commissioner McCarthy has served intermittently from 1997 to 2009 and has served continuously since 2009.

Commissioner McCarthy will continue to hold the seat assigned in statute to the President of the Massachusetts AFL-CIO or his designee (as appointed by the Auditor). Mr. McCarthy served as the President of the Professional Fire Fighters of Massachusetts from his election to the post in 1987 until his retirement on January 21<sup>st</sup> of 2011. Prior to becoming the union's President, Mr. McCarthy served as their Legislative Agent from 1985-1987. Mr. McCarthy is a retired Captain of the Watertown Fire Department and served in his field for



*Auditor Suzanne M. Bump swears in Commissioner Robert B. McCarthy*

34 years. Commissioner McCarthy was also elected to the Executive Board of the National Conference on Public Employee Retirement Systems in May of 2013. PERAC Chairman Philip Y. Brown and

Executive Director Joseph E. Connarton welcome Commissioner McCarthy's reappointment to the Commission as he assumes another full-five-year term. ■

## EARLY RETIREMENT INCENTIVE ANALYSIS

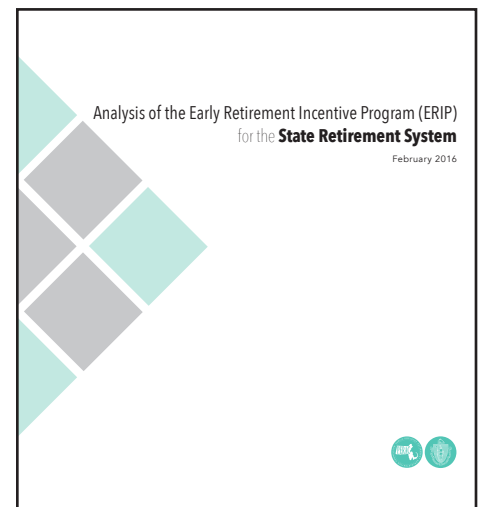
By James Lamenzo  
Actuary

**O**n February 4, 2016, we released our analysis of Chapter 19 of the Acts of 2015, which established an early retirement incentive program (ERIP) for State employees. Almost 2,500 members retired under this legislation. The full report is available on our website.

Eligible members who elected to participate in the ERIP had their retirement allowances determined by adding 5 years to their age and/or creditable service (any combination in full years to a maximum of 5 years). The

enhanced benefit could not exceed 80% of the average rate of annual compensation used in the calculation. All members retiring under the program had an effective date of retirement of June 30, 2015.

The actuarial assumptions used to calculate the actuarial accrued liability and the normal cost are the same as those used in the actuarial valuation of the State Retirement System as of January 1, 2015. The valuation report is available on our website. *(continued next page)*



*PERAC released the ERIP Analysis for State employees on 2/4/16*

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## EARLY RETIREMENT INCENTIVE (Continued from page 1)

### Cost Analysis

To determine the actuarial accrued liability attributable to the ERIP, we valued the members who elected to retire under the program in two ways. Both calculations were determined as of July 1, 2015.

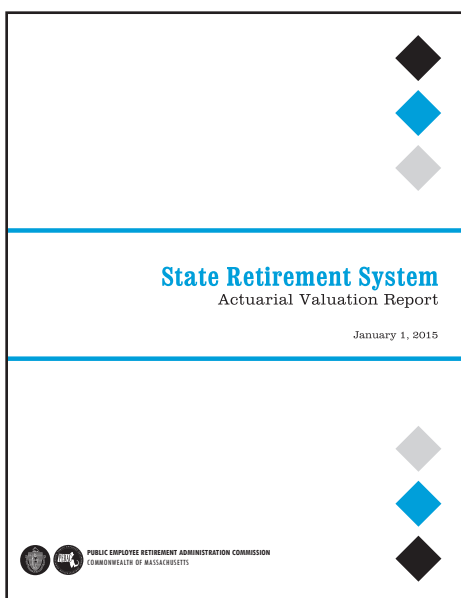
The first calculation determined the actuarial liability attributable to the retirees who elected the ERIP had each member

retired without the incentive. The second calculation determined the actuarial liability for these retirees after the application of the ERIP. The difference between the two amounts reflects the increase in actuarial liability due to the ERIP. This amount will be amortized as part of the Commonwealth funding schedule. For comparison, we have shown

the January 1, 2015 actuarial valuation results for the active members who participated in the ERIP.

The table below is a summary of the results. ■

**The actuarial assumptions used to calculate the actuarial accrued liability and the normal cost are the same as those used in the actuarial valuation of the State Retirement System as of January 1, 2015. The valuation report is available on the PERAC website.**



<b>1/1/2015 State Valuation Results for active members who participated in the ERIP (dollars in thousands)</b>		
	<b>AS ACTIVES</b>	<b>AS RETIREES</b>
<b>NUMBER OF MEMBERS</b>		
Active	2,473	
Terminated Vested	13	
Retirees*	0	2,487
<b>Total</b>	<b>2,486</b>	<b>2,487</b>
<b>REGULAR COMPENSATION</b>		
Active	\$184,263	N/A
Terminated Vested	\$751	N/A
<b>Total</b>	<b>\$185,014</b>	<b>N/A</b>
<b>TOTAL NORMAL COST</b>	\$18,453	N/A
<b>EMPLOYEE CONTRIBUTIONS</b>	\$13,856	N/A
<b>NET EMPLOYER NORMAL COST</b>	\$4,597	N/A
<b>ACTUARIAL LIABILITY AS OF JULY 1, 2015</b>		
Before Incentive	\$1,002,082	\$1,116,132
After Incentive		\$1,346,434
<b>INCREASE IN ACTUARIAL LIABILITY</b>		<b>\$230,302</b>
<b>AMORTIZATION OF INCREASE BEGINNING FY16 (annual payments on January 1)</b>		
15-year level basis		\$25,544
10-year level basis		\$32,715

\* Includes 1 member who was not included in the State data on January 1, 2015

## LEGISLATURE SUSTAINS GOVERNOR'S VETO OF BUDGET OUTSIDE SECTION 55

### Section 55 is Vetoes and Not Overridden - Section 54 Passes

*By Michael DeVito  
Director of Strategic Planning, Management and Public Affairs*

The FY'2016 Commonwealth of Massachusetts Budget, (now Chapter 46 of the Acts of 2015) was significant to the state's pension community in its inclusion of two impactful Outside Sections. Outside Sections 54 and 55 in then H. 3650 would have impacted retirement board procurement requirements enacted as part of Chapter 176 of the Acts of 2011.

PERAC felt that these Outside Sections would adversely impact the innovative and already very successful procurement requirements of Chapter 176 of the Acts of 2011. The intent of these requirements was to provide more opportunities for firms to compete for retirement board business in a more open, transparent, and fully competitive manner - with full disclosure. And those objectives are already clearly being met.

In the limited research that PERAC has conducted to-date on cost savings (keeping in mind that many of the procurements that would have been required had not even met the 5-year mandatory timeframe to re-bid as yet), it was clear that retirement systems are now saving significant sums as a result of rebidding contracts. PERAC is convinced that it will amount to millions of dollars of savings - due to new procurements. One system, the Cambridge Retirement System indicated that on one due diligence procurement alone it will have saved more than \$1.75M in fees over 5 years for its members by switching from active to passive management in that particular account.

Chapter 176 was a watershed Act - the third major pension reform statute passed in recent years by the Massachusetts legislature. This Act included signature reforms to the overall pension system and also included numerous progressive sections related to retirement board governance - among them the procurement requirements in Section 42.

### Outside Section 54

Outside Section 54 has now passed into law. It extends the mandatory procurement requirements for retirement board contract procurements in the areas of investment, actuarial, accounting and legal services from 5 to 7 years. This change is now in effect.

### Outside Section 55

The other section, Outside Section 55 also passed the legislature but was vetoed by Governor Baker at PERAC's request. The Governor's veto message (H. 3675) stated:

**"I am vetoing this section because it authorizes the state's many retirement systems to engage in follow-on investments without the protection afforded by up-to-date due diligence."**

This Outside Section would have impacted procurement requirements for so-called "follow-on" funds for private equity and also for real estate investments.

PERAC is pleased to report that this Veto was sustained by the legislature - and did not pass into law as part of the final budget.



### PERAC Thanks Supporters in this Effort

Chairman Phillip Y. Brown expressed his thanks to Governor Charlie Baker and the legislature for their support of PERAC's position on Outside Section 55:

**"On behalf of PERAC's Commissioners, I'd like to thank Governor Baker for his veto of Outside Section 55 in the FY'16 Budget. In addition, my fellow Commissioners and I sincerely appreciate the legislature's sustaining this veto and wish to thank Speaker DeLeo and Senate President Rosenberg and the entire General Court for their support. We thank you very much." ■**





## BEACON HILL UPDATE

*By Michael DeVito  
Director of Strategic Planning, Management and Public Affairs*

The Massachusetts legislature is entering its final phase of deliberations before it recesses at the end of July for the 2016 election season. Elections for all Senate and Representative Districts will be held in the fall of 2016. As you know, 2015 began with a new Governor and the appointment of two new Chairs of the Joint Committee on Public Service. Senate President Stanley Rosenberg named Senator James E. Timilty of Walpole as Senate Co-Chair of the Committee and House Speaker Robert A. DeLeo named Representative James M. Murphy of Weymouth to be the House Co-Chair of the Committee. The Chairs have now led the Committee essentially through the entire hearing process for each of the hundreds of bills assigned to the Public Service Committee and will be reporting all bills at some point between now and the end of the legislative session on July 31, 2016.

### PERAC'S LEGISLATION

#### **H. 3971 Passes the House: An Act relative to survivors pension benefits and qualified domestic relations orders**

After extensive deliberations, the Commission voted to seek a statutory change that would protect the rights of ex-spouses who were named the Option C beneficiary in a Domestic Relations Order (DRO) and would still provide a current spouse with a partial benefit under section 9. PERAC proposed a late-filed bill sponsored by Representative James J. O'Day. Under the bill, now only one benefit would be paid (section 9) but it would be split

between 2 beneficiaries. This would only occur in the limited circumstances where a member retired for accidental disability, a DRO was in place, the member remarried and subsequently died as a result of the injury which led to his/her disability. Approximately 75 accidental death benefits are approved in a given year and very few of those would trigger the benefit calculation proposed in this legislation.

The bill (then H. 3566) was heard by the Joint Committee on Public Service on July 21, 2015 and reported favorably on November 5, 2015. It was renumbered as H. 3971, reported favorably by the House Committee on Ways and Means and then Ordered to a Third Reading in the House of Representatives on January 27, 2016. H. 3971 passed the House on February 24, 2016 and is now in the Senate Committee on Ways and Means. Chairman O'Day, his staff, and PERAC are continuing their efforts to enact this bill which will further guarantee equity and fairness in certain disability retirement situations.

**The Commission voted to seek a statutory change that would protect the rights of ex-spouses who were named the Option C beneficiary in a Domestic Relations Order (DRO) and would still provide a current spouse with a partial benefit under section 9.**

## H. 17: An Act authorizing the Public Employee Retirement Administration Commission to hold hearings.

Section 9 of Chapter 36 of the Acts of 2012 says that, “In no event shall any member be entitled to a retirement allowance under sections 1 to 28 inclusive, which is based upon a salary that was intentionally concealed from or intentionally misreported to the commonwealth, or any political subdivision, district or authority of the commonwealth, as determined by the commission.”

The intent of PERAC’s filing H. 17 was to further clarify the agency’s ability to conduct hearings and investigations related to Chapter 32, Section 15(7) and to provide guidance related to said matters. While the intent was to provide the agency with the wherewithal to conduct necessary hearings and secure necessary documentation and participation of individuals in the conduct of its statutorily required determination, the bill unfortunately met with opposition from the organized labor community.

PERAC realized that this opposition would impede the ability of the agency and Massachusetts government to meet the legislative intent to thoroughly investigate Section 15(7) matters and make a

determination if the law was violated. Seeking to create a satisfactory statutory framework to meet the legislature’s mandate, the Commission voted to support a change in language and approach as suggested by House Joint Committee on Public Service Chairman James M. Murphy and also by a union official at the public hearing.

The union official had suggested that local retirement boards be allowed to make a determination in these cases rather than PERAC - as the retirement boards already possess the statutory tools, such as subpoena authority, to be able to conduct a thorough investigation of any matters that may arise under this section. Seeking a solution and not the exercise of “pride of ownership”, the Commission unanimously agreed to support this approach.

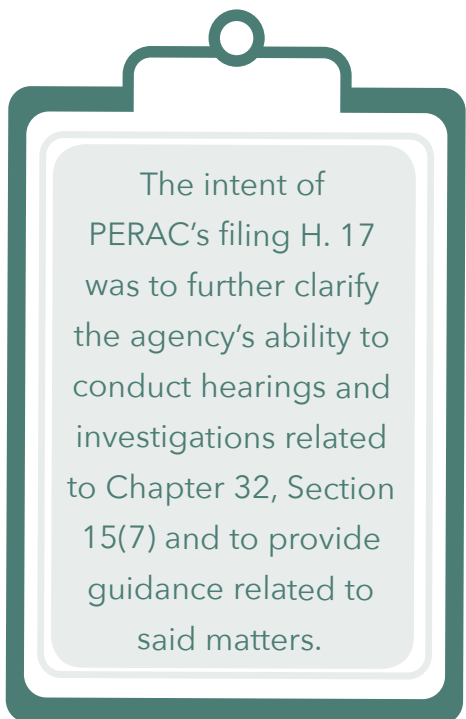
PERAC’s Legislative Sub-Committee proposed Draft language that was approved by the Commission at their February 17, 2016 meeting to accomplish this objective. It suggests the following:

1. Removal of the mandate that PERAC provide a determination in these cases;
2. Specifying that the board notify the Commission when it initiates a Chapter 32, Section 15(7) proceeding and provide PERAC with pertinent documents upon request; and,
3. Provide that any calculations thereto will be submitted to the Commission for approval.

PERAC provided this proposed language to the Joint Committee on Public Service. Hopefully, this language will meet both the concerns expressed by the union officials and the necessity that PERAC be apprised of the conduct of these hearings, provided with pertinent public documents when necessary and allowed as in the case of all benefit calculations to approve any calculations in these cases. The original H. 17 was reported to study by the Joint Committee on Public Service on March 16, 2016.

### Remainder of the Session

As always, PERAC will continue to monitor any and all bills related to retirement and pensions that impact the retirement community and will expeditiously alert the boards to any statutory changes that may impact their operations. ■



The intent of PERAC’s filing H. 17 was to further clarify the agency’s ability to conduct hearings and investigations related to Chapter 32, Section 15(7) and to provide guidance related to said matters.

PERAC’S NEW DISABILITY AND ELECTION REGULATIONS APPROVED

Kenneth Hill, Senior Associate General Counsel  
Patrick Charles, Associate General Counsel

In August of 2014, PERAC undertook a review of its regulatory sections pertaining to retirement board elections (840 CMR 7.00) and disability retirements (840 CMR 10.10) and determined that they required amendment. In order to institute any regulatory changes, PERAC must follow a lengthy process.

Upon review of PERAC’s election and disability regulations, PERAC’s Legal Unit determined that several changes should be made. Generally speaking, the proposed changes to the election regulations included clarifying certain terms and specifying who may be elected to a retirement board. The proposed changes to the disability regulations mainly concerned clarification of the Comprehensive Medical Evaluation process, specification of who may or may not attend a medical panel examination, and a new regulation concerning the handling of a disability application of an employee of PERAC. In the upcoming weeks, PERAC will draft and issue a detailed memorandum summarizing these changes. For now, however, it is important to know that the substance of these initial changes evolved over the course of several months

following comment from numerous groups and individuals, including PERAC staff, various retirement boards and their counsel, retirement interest groups, members of public retirement systems, union officials, and members of the public.

The Commission voted to accept the proposed election and disability regulations on April 8, 2015 and forward them to the Secretary of Administration and Finance for review, per Policy No. 97-004.

PERAC attorneys Ken Hill and Patrick Charles held four public hearings regarding these proposed changes at PERAC’s offices as well as locations across the Commonwealth. They also gave a presentation on the proposed changes on October 7, 2015 at the fall conference of the Massachusetts Association of Contributory Retirement Systems (“MACRS”).

PERAC received limited comments at these hearings and in writing prior to the public comment deadline of October 9, 2015. The PERAC Legal Unit discussed these comments and addressed them where appropriate in updated drafts of the

election and disability regulations. The updated drafts were then presented to the full Commission at a public meeting held on December 2, 2015. The Commission voted on one small change to the disability regulations, and then voted to approve both the proposed election regulations (840 CMR 7.00) and disability regulations (840 CMR 10.00) for promulgation.

After a Legislative review period, PERAC filed the amended regulations with the Office of the Secretary of the Commonwealth on February 24, 2016. The regulations took effect upon publication in the Code of Massachusetts Regulations, on March 11, 2016.

The regulatory process for PERAC is a complex and lengthy one. In this case, the process stretched over a period of more than 18 months. During that time period, numerous employees at PERAC as well as the full Commission reviewed, discussed, amended and presented the proposed regulations to the public. PERAC trusts that the changes made in the proposed regulations will assist with the efficient operation of the 104 retirement systems throughout the Commonwealth. ■

The proposed changes to the election regulations included clarifying certain terms and specifying who may be elected to a retirement board

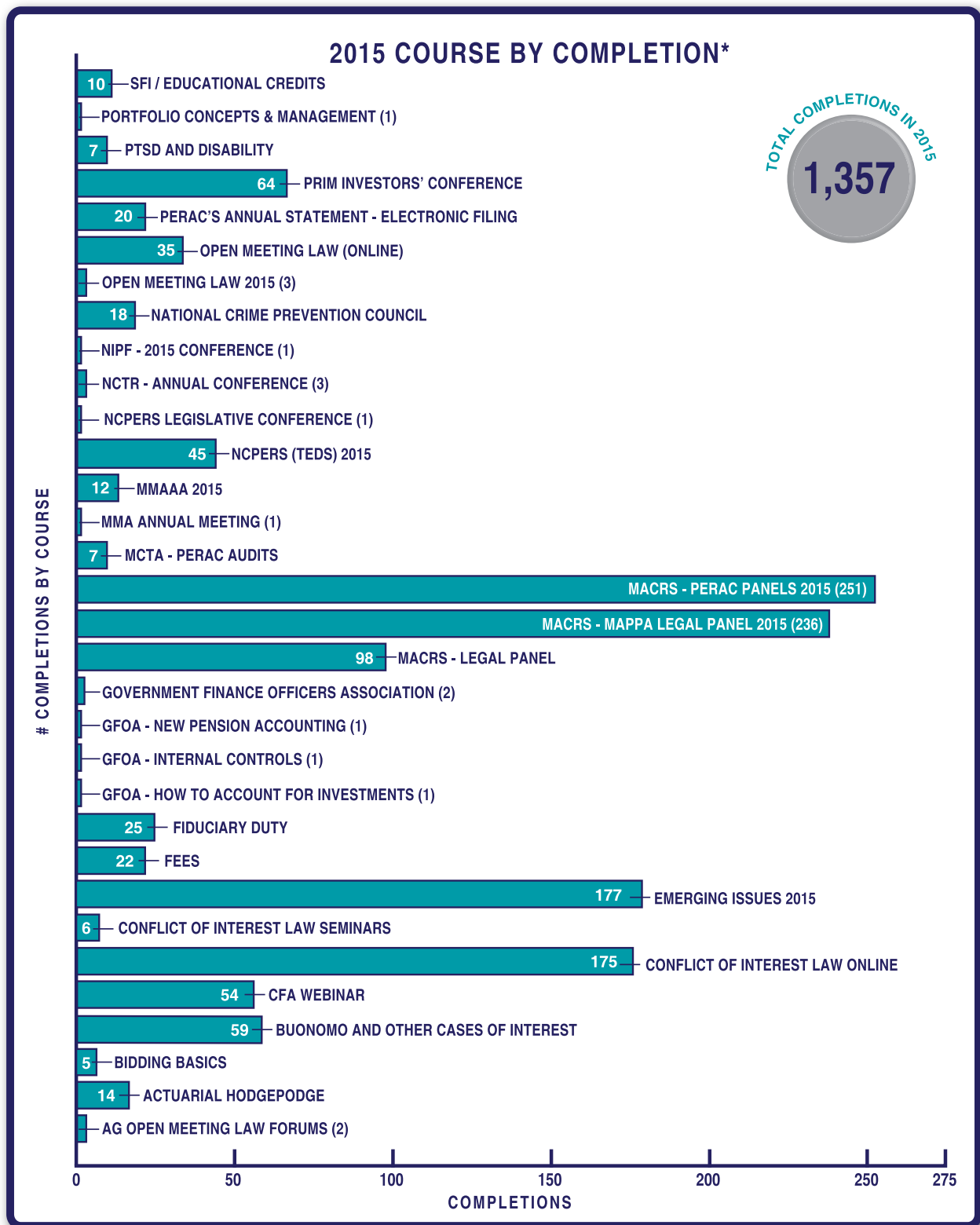
840 CMR: PUBLIC EMPLOYEE RETIREMENT ADMINISTRATION  
840 CMR 10.00: STANDARD RULES FOR DISABILITY RETIREMENT  
Section  
10.01: Definitions  
10.02: Purpose of Standard Rules: Retirement Board Policy  
10.03: Supplementary Rules: Approval by PERAC

Election Regulations

840 CMR: PUBLIC EMPLOYEE RETIREMENT ADMINISTRATION  
840 CMR 7.00: STANDARD RULES FOR ELECTIONS  
Section  
7.01: General Provisions  
7.02: Election Officer; Appeals to Board  
7.03: Notice of Elections  
7.04: Nominations  
7.05: Election by Declaration  
7.06: Official Election Ballots  
7.07: Elections Conducted by Mail or at Polling Place  
7.08: Absentee Ballots  
7.09: Tabulation of Ballots  
7.10: Election Results  
7.11: Preservation of Ballots  
7.12: Simultaneous Elections  
7.13: Terms  
7.01: General Provisions

The proposed changes to the disability regulations mainly concerned clarification of the Comprehensive Medical Evaluation process.

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(\*data as of 12/31/15)



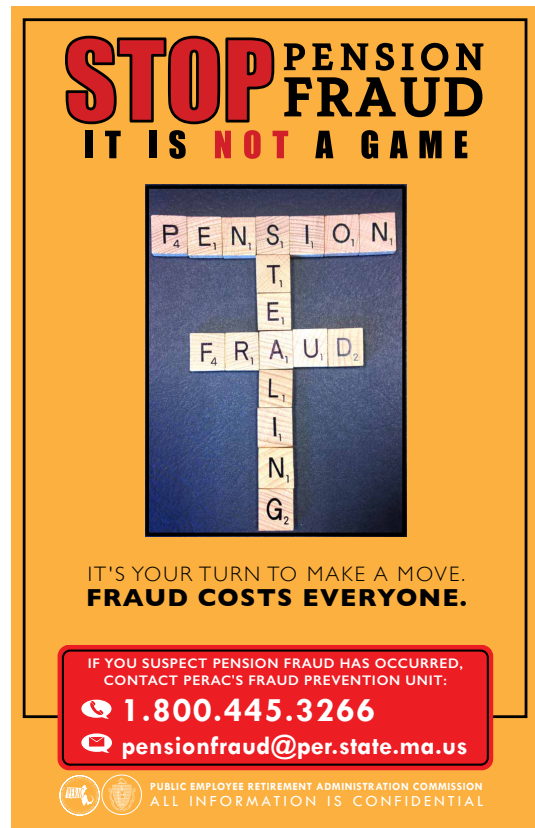
## FRAUD PREVENTION - 91A FORMS DUE APRIL 15

The 2015 Annual Statements of Earned Income for disability recipients were mailed on February 24, 2016 and are due at PERAC by April 15, 2016. Although April 15, 2016 is a Federal holiday, and April 18, 2016 is a State holiday this year, the statute dictates that the forms be received by PERAC by April 15 of each year.

Please contact Ms. Sandra King, Fraud Prevention Manager at 617-666-4446, ext. 947 with any questions.

Front of 2015 91A Form

**NEW THIS YEAR!** Please include your email address on the back of the form in the space provided.



PERAC's 2015 Fraud Poster Campaign



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